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Special:

TO:

**ALL PUBLIC AGENCIES AND EMPLOYEE
REPRESENTATIVES**

SUBJECT:

**POTENTIAL LOSS OF EMPLOYER PAID POST-
RETIREMENT MEDICAL BENEFITS IN CONJUNCTION
WITH A TRANSFER OF JOB FUNCTION FROM ONE
EMPLOYER TO ANOTHER**

California Public Employees' Retirement System (CalPERS) has recently become aware that there is the potential that an employee whose job function is transferred from a CalPERS employer to a non-CalPERS employer could lose all employer provided post-retirement medical coverage. Specifically, a transfer of job function can result in the termination of health care coverage under the Public Employees' Medical Health Care Act (PEMHCA - the health care system administered by CalPERS) and commencement of health coverage under the new employer's plan which is not a part of PEMHCA. In such a transfer of job function, the employee also ceases to accrue retirement benefit service under CalPERS and commences accruing retirement benefit service under the employer's retirement system.

For persons enrolled in state, county, and other public retirement systems that are parties to "reciprocal" agreements, transferring a job function from one employer to another generally does not affect retirement allowance eligibility when certain conditions are met. However, the same is not true for post-retirement health care benefits. In some cases the employee may not earn sufficient service with the new employer to become vested for employer provided post-retirement health benefits. At the same time, the employee may not be eligible for post-retirement health benefits under PEMHCA through their first employer because they did not retire while covered under PEMHCA.

If the employee's prior CalPERS service were to be transferred from CalPERS to the new employer's retirement system, that system may recognize the prior CalPERS service for vesting under the health plan. However, the law governing this transfer of prior CalPERS service to other systems is permissive only and is contingent upon the CalPERS' Board and the Board of the other retirement system reaching an agreement on the prior service and assets to be transferred.

CalPERS strongly urges all parties considering the transfer of job functions from a CalPERS employer to a non-CalPERS employer to consider explicitly the implications of the transfer on the employee's rights to employer paid post-retirement medical benefits.

Situations that could result in this issue include:

- The transfer of a function (policing, fire protection, etc.) from one agency to another,
- The merger of two agencies, and
- The spin-off of a function into a separate agency.

Often, different retirement systems have structures that may prevent a transfer of employee service from one system to the next. CalPERS continues to review the issues that these transfers raise.

When employees are transferred from one employer to another, they potentially face the loss of retiree health care benefits. For this reason, the parties should explicitly address all aspects of the transfer including the post-retirement medical coverage at the time of the transfer.

Kenneth W. Marzion, Chief
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